

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
Case No. 4:16-CV-41-FL

CERTAIN INTERESTE UNDERWRITERS)
AT LLOYD’S, LONDON SUBSCRIBING)
TO CERTIFICATE No. TBT009094,)
Plaintiff,)

v.)

ENTRY OF DEFAULT

NORRIS PROPERTIES, INC., STEVEN)
NORRIS INDIVIDUALLY, KINGDOM)
HOMES, LLC, JAMES BASS, CRISTLE)
BASS, A.B., A MINOR AND THROUGH)
HER GUARDIAN AD LITEM, JOSHUA R.)
BOBERG, T.B., A MINOR BY AND)
THROUGH HIS GUARDIAN AD LITEM)
JOSHUA R. BOBERG, AND G.B., A)
MINOR BY AND THROUGH HER)
GUARDIAN AD LITEM, JOSHUA R.)
BOBERG,)
Defendants.)

This matter is before the clerk on the motion for entry of default [DE-13] filed by plaintiff Certain Interested Underwriters at Lloyd’s, London Subscribing to Certificate TBT009094. Plaintiff seeks an entry of default as to defendant Kingdom Homes, LLC.

Plaintiff initiated this action by filing a complaint on April 4, 2016 seeking the rescission of an insurance policy issued by plaintiff to “Norris Properties Kingdom Homes” and in the alternative, declaratory judgment concerning the policy. On May 20, 2016, an answer [DE-5] titled: “Defendants Norris Properties, Inc., Steven Norris, Individually, and Kingdom Homes, LLC” was filed. The body of the answer indicated that it was filed by “Defendants Norris Properties, Inc. d/b/a Kingdom Homes and Steven Norris, Individually.” After receiving notices of deficiencies, counsel filed a notice of appearance for Steven Norris [DE-7] and “NORRIS

PROPERTIES, INC., d/b/a KINGDOM HOMES” [DE-8]. Counsel did not file a notice of appearance for “Kingdom Homes, LLC.” Counsel also filed an amended answer [DE-10] to the complaint, titled: “ANSWER OF DEFENDANTS NORRIS PROPERTIES INC. d/b/a KINGDOM HOMES and STEVEN NORRIS, INDIVIDUALLY.”


On June 3, 2016, plaintiff moved for entry of default as to Kingdom Homes, LLC. In support of the motion for entry of default, plaintiff filed the affidavit of its counsel, who states that plaintiff effected service on Kingdom Homes, LLC, on April 5, 2016, via a designated delivery service authorized by 26 U.S.C. § 7502(f)(2) and attaches the copy of the receipt of delivery thereto. See Aff. of Service [DE-13-1]. Plaintiff’s counsel also states that he “confirmed an extension of time through May 19, 2016 for Kingdom Homes, LLC, to respond to the Complaint with Steven Norris, (registered agent for Kingdom Homes, LLC).” Id. Plaintiff’s counsel further states that “counsel for Steven Norris (who has answered [plaintiff’s] Complaint) has informed the undersigned that Kingdom Homes, LLC does not intend to respond to the [] Complaint.” Id.

Under Rule 4(h) of the Federal Rules of Civil Procedure, a corporation may be served by following the law provided in the forum state. See Fed. R. Civ. P. 4(h)(1)(A); Fed. R. Civ. P. 4(e)(1). Here, plaintiff has effected proper service of process under North Carolina Rule of Civil Procedure 4(j)(6). See N.C. Gen. Stat. § 1A-1, Rule 4(j)(g)(d) (providing that a domestic corporation may be served “[b]y depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the . . . [registered] agent to be served . . . delivering to the addressee, and obtaining a delivery receipt”). Moreover, plaintiff has met the requirements for proving service when seeking an entry of default. See N.C. Gen. Stat. § 1A-1, Rule 4(j2); N.C. Gen. Stat. 1-75.10(a)(5). Specifically,

plaintiff has filed an affidavit averring that (1) that a copy of the summons and complaint was deposited with a designated delivery service, delivery receipt requested, addressed to the registered agent of Kingdom Homes, LLC;¹ (2) that it was in fact received as evidenced by an attached registry receipt, and (3) the genuine receipt is attached. See N.C. Gen. Stat. § 1-75.10(a)(4).

The record shows that plaintiff effected proper service on defendant Kingdom Homes, LLC, and that defendant has failed to appear, plead or otherwise defend as provided by Rule 55 of the Federal Rules of Civil Procedure. Accordingly, plaintiff's motion is GRANTED and default is hereby entered against defendant Kingdom Homes, LLC.

SO ORDERED. This the 8th day of July, 2016.


Julie Richards Johnston
Clerk of Court

¹ The North Carolina Secretary of State's records indicate that Kingdom Homes, LLC was administratively dissolved on October 1, 2009. Under North Carolina law, "[t]he dissolution of the LLC does not prevent commencement of a proceeding by or against the LLC in its own name, abate or suspend a proceeding by or against the LLC, or terminate the authority of the registered agent of the LLC." N.C. Gen. Stat. § 57D-6-07(f).